

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

ANDRE S. MYERS,

Petitioner,

v.

CASE NO. 2:07-cv-00129

**WARDEN, ROSS CORRECTIONAL
INSTITUTION,**

**JUDGE MICHAEL H. WATSON
MAGISTRATE JUDGE KEMP**

Respondent.

OPINION AND ORDER

On April 18, 2007, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 be transferred to the United States Court of Appeals for the Sixth Circuit as a successive petition. Petitioner has filed objections to the Magistrate Judge's *Report and Recommendation*. Petitioner states that the Magistrate Judge misinterpreted the record and facts, and that his Fourth Amendment claim should be considered in conjunction with his claim of ineffective assistance of counsel; however, petitioner does not argue that the Magistrate Judge incorrectly construed the instant §2254 petition as successive. See *Objections*.

Pursuant to 28 U.S.C. 636(b)(1), this Court has conducted a de novo review of those portions of the *Report and Recommendation* objected to by petitioner. For the reasons discussed in the *Report and Recommendation*, petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**.

This action is hereby **TRANSFERRED** to the United States Court of Appeals for the Sixth Circuit as a successive petition.

IT IS SO ORDERED.



MICHAEL H. WATSON
United States District Judge